

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

FILED
CLERK'S OFFICE

2006 FEB 16 P 4:15

CIVIL ACTION NO. 04-11934-GAO

U.S. DISTRICT COURT
DISTRICT OF MASS.

NOAH GREENBERG)
Plaintiff)
v.)
TOWN OF FALMOUTH,)
AND GANNETT)
FLEMING, INC.,)
Defendants)

**AFFIDAVIT OF JEFFREY ALBERTI, IN OPPOSITION TO PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT**

I, Jeffrey Alberti, do hereby depose under oath as follows:

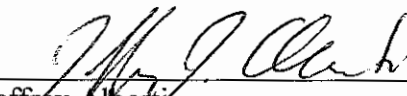
1. I am currently, and was at all times relevant to this lawsuit, an employee of Gannett Fleming Engineers & Architects PC ("Gannett" or "GF"). I served as Project Manager on the subject DPW job in Falmouth, Massachusetts. As such, I have personal knowledge of the facts set forth herein, and if called to testify, could competently testify thereto.

2. Attached hereto are Drawings C-104 and A-101 that are true and accurate architectural plans for the subject DPW job in Falmouth, Massachusetts. My office generated these plans from GF's AutoCAD computer system. The *yellow* areas are Gannett's final design for the subject job. The *green* markings and the *green* shaded areas represent plaintiff Noah Greenberg's preliminary design. Greenberg's preliminary design (green) has been superimposed on Gannett Fleming's final design (Yellow) for the same job, in order to compare size, layout and placement on the physical/geographical site.

3. It is readily apparent from the attached drawings that Gannett's final design, in no way, reflects Greenberg's preliminary design. Gannett's design is much larger, has a different foot print, the interior space is completely different, and it has two floors as compared to Greenberg's one. As expected, the entrances of both designs face the parking lot to the east, but at different locations. Greenberg's entrance opens to a narrow corridor leading to the general administrative area. Gannett's entrance includes a generous vestibule leading to an open foyer and reception area. From this point the layouts and circulation are completely different.

4. The 28-foot dimension that plaintiff's summary judgment brief refers to (pp.12, 13) on plaintiff's drawings, is not the same 28-foot dimension as appears in Gannett's plans for this same job and they are totally unrelated. These dimensions are at different locations within the building designs. The 28-foot dimension in Gannett's final plans, was a dimension that was arrived at by calculating the space needed for the proposed equipment in the Parks Department maintenance shop, with its high-bay access (to access tall equipment from a platform). Greenberg's 28-foot dimension is for the lunchroom. We did not derive this 28-foot dimension from plaintiff's plans, and it is merely a coincidence that they are the same.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 16th
DAY OF FEBRUARY 2006.


Jeffrey Alberti